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October 25, 2001

VIA OVERNIGHT DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37243-0505

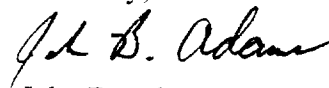
RE: Rulemaking Amendments of Regulations for Telephone Service Providers,
Docket No. 00-00873

Dear Mr. Waddell:

Enclosed for filing in the above-referenced proceeding are an original and twelve copies of the Comments of Citizens Telecommunications Company of Tennessee and Citizens Telecommunications Company of the Volunteer State.

Please stamp as received the enclosed copy marked "stamp and return" and return it in the enclosed postage-paid envelope.

Sincerely,



John B. Adams, Esq.

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

IN RE:)
)
AMENDMENTS TO CHAPTER 1220-4-2,)
REGULATIONS FOR TELEPHONE)
TELECOMMUNICATIONS SERVICE)
PROVIDERS)

COMMENTS OF THE CITIZENS COMMUNICATIONS COMPANIES

Citizens Telecommunications Company of Tennessee, LLC and Citizens Telecommunications Company of the Volunteer State, LLC (hereinafter, the “Citizens ILECs” or “Citizens”), by their attorney, submit their comments in response to the August 16, 2001 Notice of Filing (“Notice”) regarding Staff’s redraft of the proposed amendments to the Regulations for Telephone Telecommunications Service Providers.

Citizens has participated fully in the workshops that have been held in this proceeding, and thanks Staff, the Hearing Officer, and the Authority for taking the time to work cooperatively with the industry in the workshop process. Those workshops were a worthwhile effort and have obviously yielded fruit in the form of the significant revisions to the proposed rules.

The proposed rules, however, could still benefit from further revision. Citizens fully supports the Industry Consensus comments that are being filed separately, and offers the following comments in addition thereto.

Rule 1220-4-2-.11(1) – Construction of Telephone Plant

Citizens supports efforts to restore construction sites to their pre-construction condition, but

it is not always possible to restore these sites exactly. For example, it is not always possible to restore mature landscaping, such as mature trees or shrubs. Citizens therefore suggests that this rule be modified to require that construction sites be restored “to *substantially* the condition in which it existed prior to construction.

Rule 1220-4-2-.16(1)(b) – Installation of Primary Service Orders

While Citizens fully supports the Industry Consensus that primary service orders should be completed within five business days, Citizens believes that using an average as the standard will be problematic. It is not clear how using an average as the standard will apply. Averages are rarely whole numbers. Thus, the question arises of whether an average of 3.2, for example, satisfies the rule. What about 3.5 or 3.9?

This uncertainty is compounded by the fact that the proposed rule requires installation times to be measured down to the hour, but then sets the standard in terms of days. For example, should a carrier consider an order that is completed in 54 hours to be completed in 2 days or 2.25 days? Are two separate orders that are completed in 49 hours and 71 hours, respectively, both completed in 3.0 days?

Further in this regard, Citizens does not have the capability to measure installation times down to the hour. Instead, Citizens has historically measured installation times in terms of calendar days. This system has worked well over the years and is not problematic now. Further, it is embodied both in the Authority’s existing rules and in the very next paragraph of the proposed rules regarding installation of service when construction is required. No explanation has been offered for this radical departure from existing methodologies or for why this new methodology is appropriate

for installations that do not require construction while the existing methodology remains appropriate for those installations for which facilities must be constructed.

Citizens urges the Authority to adopt a standard that is expressed as a percentage of primary service installations being completed within a certain number of days, which is how the proposed rules set the standard for primary service installation when construction is required. More specifically, Citizens urges the Authority to adopt the following standard:

Where facilities are available, not less than eighty percent (80%) of primary service orders within an exchange shall be completed within five (5) working days, as measured on a monthly basis, unless otherwise agreed upon by the customer.

Additionally, the Authority should make clear that day 1 is the day after the day that the service order is received. If, on the other hand, day 1 were considered to be the day the order is received, a carrier receiving an order near the end of the business day would effectively lose an entire day. This raises similar problems to those created by the proposed rule starting to count from the hour that the order is received.

Rules 1220-4-2-.16(o)(3) – Answer Times

This proposed rule, which sets a standard for the number of abandoned calls that a carrier is permitted to experience, is unreasonable in that it holds the carrier liable for the acts of third parties over whom it has no control. Customers may hang up for a number of reasons – the baby cries, the doorbell rings, or the boss walks in. Thus, abandoned calls reflect the personal choice of customers that are not necessarily related to having to wait an unacceptably long time for a customer service

representative. Citizens' performance should not be judged based on what independent third parties do for their own reasons.

Rule 1220-4-2-.17(2) – QSM for Installation of Primary Service Order

Citizens questions whether the QSM proposed in this rule relating to primary service installations is lawful. The statutory authority for the TRA to require these kinds of waivers of tariffed charges or customer credits is not clearly established. To the extent that this proposed rule is an effort to prescribe rates, the rates are confiscatory in that they do not permit a carrier an opportunity to recover its costs. To the extent that they are intended as a penalty for violating the rules, they are *ultra vires* as the statute authorizes the Authority to assess penalties of \$50.00 with the funds being paid to the state. To the extent that they are intended as damages to a customer, they are awarded without due process of law as there is no adjudication involved.¹

Despite the various ways that this QSM could be viewed, it is obviously intended, as borne out by Staff's comments during the workshops, to be a financial penalty to the carrier for failure to meet the proposed service standards. T.C.A § 65-4-120 is clear, however, that the TRA only has authority to assess financial penalties for violations of its rules in the amount of \$50.00 per day of a violation, and then only after a hearing on a complaint.

Citizens has no objection to issuing appropriate credits to customers. The performance guarantees in its tariff and its business practices in issuing credits demonstrate Citizens' willingness to issue credits where credits are due, and, as a matter of customer relations, even where they aren't

¹ These same legal infirmities apply to all of the QSMs, except possibly 1220-4-2-.17(3). That QSM, however, still fails to provide the hearing that is required by statute.

necessarily due. Citizens does object, however, to having arbitrary and automatic customer credits imposed upon it as an alternate means of assessing a financial penalty that is beyond the limits of the TRA's authority.

Rules 1220-4-2-.18(3) – Certification of Lifeline Eligibility

Citizens is concerned about the need for the Department of Human Services to cooperate in the semi-annual verification that is required by this proposed rule. While Citizens currently works with the Department to verify the continued eligibility of Lifeline customers, its ability to complete this verification is contingent upon the Department providing information in a timely and usable fashion. Compliance with the proposed rule would be unduly burdensome unless the Department were able to automate the process. If the process is manual, however, annual verification and continuance of existing practices would be more appropriate.

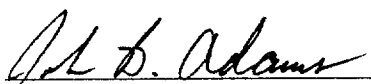
Rule 1220-4-2-.19 – Numbering Conservation

Numbering conservation issues fall within federal jurisdiction, although the TRA has been delegated certain authority by the FCC. Overall, the proposed numbering rules are unnecessarily duplicative of federal requirements and should be omitted from the final version of the rules. Despite that, this rule generally reflects the authority that has been delegated to the TRA, with one important exception. Participation in thousands-block number pooling is required only of those carriers that have implemented permanent local number portability ("LNP"). The proposed rule, however, on its

face applies thousands-block number pooling requirements to all telecommunications service providers. In this regard, the rule is in violation of federal law and is *ultra vires*.

Respectfully submitted,

**Citizens Telecommunications Company of
Tennessee; Citizens Telecommunications
Company of the Volunteer State**

By: 
John B. Adams

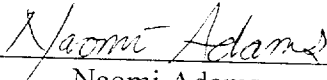
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October 25, 2001

Its Attorney

CERTIFICATE OF SERVICE

I, Naomi Adams, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Comments of the Citizens Communications Companies" was served on this 25th day of October 2001, by first class US mail postage prepaid, to the following parties:


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